Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	

To: The Commission

REPLY COMMENTS OF AIRTOUCH COMMUNICATIONS, INC.

AIRTOUCH COMMUNICATIONS, INC.

Pamela J. Riley
David A. Gross
AirTouch Communications, Inc.
1818 N Street, N.W., Suite 800
Washington, D.C. 20036
(202) 293-3800

August 30, 1999

SUMMARY

AirTouch opposes further delegation of authority to states with respect to numbering administration. The NANP needs uniform administration not 51 independent implementations. NANP was established to avoid balkanized responses to numbering conservation and should be strengthened. Centralized administration of numbering is in the public interest. Any other approach would be inefficient, costly and would threaten the reliability of our national communications networks.

National numbering administration should be supported. The Commission should approve the national auditing process developed by NANC and INC and make the federal resource optimization decisions before it in the NPRM. Further, the Commission should confirm that NANPA has the authority to deny codes to carriers who are not eligible for them; it should also confirm Commission enforcement procedures in this area.

The Commission should continue to prohibit service- and technology-specific overlays. There is no basis for departing from the Commission's conclusion that such overlays hinder competition, deter entry, violate the principle of technological neutrality and do not provide effective area code relief. Specialized overlays are discriminatory and anticompetitive. Further, they are inconsistent with number portability and will impede participation by wireless carriers in LNP. CPP does not warrant a wireless-only overlay.

Finally, covered CMRS carriers should be subject to number pooling only after the established date for becoming LNP compliant. CMRS carriers should not be subject to LNP in advance of November 2002. There are serious implementation issues and the Commission should not subject the nation's wireless customers to roaming service disruptions.

TABLE OF CONTENTS

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AirTouch Communications, Inc. ("AirTouch") hereby submits its reply to the comments responding to the Commission's *Notice of Proposed Rulemaking*[1] on optimization of numbering resources for the North American Numbering Plan ("NANP").

I. AIRTOUCH OPPOSES FURTHER DELEGATION OF AUTHORITY TO STATES — THE NANP NEEDS UNIFORM ADMINISTRATION, NOT FIFTY-ONE INDEPENDENT IMPLEMENTATIONS

It is no surprise that the state regulators' comments supported a wide variety of delegations of additional authority to the states. However, the requested liberal delegation of authority to states concerning numbering would inevitably lead to fifty-one different numbering policies, instead of one. This would clearly be an unacceptable result and contrary to the direction of Congress that this Commission take responsibility for overseeing numbering administration.[2] It would be a departure from this Commission's established policy of having centralized administration of numbering at the

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[1] *Numbering Resource Optimization,* CC Docket 99-200, *Notice of Proposed Rulemaking,* FCC 99-122 (June 2, 1999) ("*NPRM*").

[2] *See* 47 U.S.C. § 251(e).

national level.[3] More fundamentally, it would be highly inefficient and costly, and would threaten the reliability of our national communications networks.

To elaborate, states would duplicate each others' efforts and reach inconsistent conclusions. There would be a patchwork of policies that carriers would have to live under, varying from state to state. Conceivably, each state would have to participate separately in the North American Numbering Council ("NANC"), and then have its own state mini-version to develop its own statewide plans. Carriers with nationwide operations would have to employ legions of numbering experts to participate in fifty-one single-state numbering task forces instead of the single Industry Numbering Committee ("INC"), and attempt to carry out fifty-one different sets of numbering guidelines, pooling guidelines, and so on. The complexity and cost of such an approach would be staggering. Carriers might be obliged to develop and implement multiple, inconsistent solutions for support, billing, and other overhead for different states; this may be difficult or impossible to accomplish.

Moreover, the Commission and the industry have already seen just how inefficient it is to allow a state (Ohio) to facilitate area code relief, as compared to relying on NANPA to oversee the process everywhere else in the nation.[4] Clearly, this experience should not be replicated in fifty

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[3] *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* CC Docket 96-98, *Second Report and Order and Memorandum Opinion and Order,* 11 F.C.C.R. 11,392 (1996); *Administration of the North American Numbering Plan,* CC Docket 92-237, *Third Report and Order,* 12 F.C.C.R. 23,040 (1997).

[4] Currently, except in Ohio, NANPA has responsibility for facilitating NPA relief. Only Ohio has opted to facilitate its own NPA relief, and in some instances it does not follow the same guidelines as NANPA, leading to just the sort of inconsistency that would become rampant if there were separate numbering administration in each state. Also, because NANPA needs to address issues nationwide, it works with industry to schedule meetings that can be attended by representatives from all over, at which issues can be promptly resolved. Ohio, on the other hand, has scheduled a series of meetings every week for an undetermined length of time. For carriers headquartered outside the state, sending representatives to such meetings is a burden, and attendance

other jurisdictions. In addition, the experience with state involvement in area code splits and overlays should hardly give the Commission confidence in the states' ability to administer this vital issue.

Other examples of individual area code relief decisions by state commissions point out the need for more uniform administration. For example, both the Arizona and Minnesota commissions have undone the positive effects of their rate center consolidation efforts by engaging in area code splits instead of overlays due to political pressure to avoid ten-digit dialing. In both cases, the dividing lines between the split NPAs were drawn through rate centers. As a result of the split rate centers, huge numbers of duplicated codes became necessary and the increase in number efficiency gained by the rate center consolidation was completely undone. Similarly, in California, political pressures threatened to derail area code relief and the necessary release of a new overlay code. The draft area code decision recently released by the state commission acknowledges that delay could negatively impact service availability, but the ongoing political debate continues and threatens rational resource management. Federal oversight would ensure consistent and efficient practices in this area.

There is no end to the difficulties that might ensue from liberal delegations of authority. Even this Commission's own policy decisions would be subject to endless revisitation by the states. For example, some states have indicated that they might seek to impose different LNP requirements than are applicable under the Commission's rules and policies. If the states are given the degree of authority over the numbering resource that they seek, there will truly be little left of the national

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by conference telephone is largely foreclosed by the way the meetings are organized and run (*e.g.*, discussion documents are physically handed out at the meeting and are not distributed by fax or email prior to the meeting). Accordingly, for national carriers, numbering experts must often be sent to Ohio to participate in these meetings, a significant diversion of resources.

policies and rules that the Commission has adopted to address national issues. In short, the delegations of authority the states seek will lead to plainly absurd, inconsistent, and inefficient results, and misuse of this finite resource.

There is simply no need for the delegations of authority the states seek. Strengthening national numbering administration is the answer. There is no need for state-sponsored audits, once the Commission has given its approval to a national auditing process developed by NANC and INC and made the resource optimization decisions now before it in the *NPRM.* There is also no need for states to be given enforcement authority. Instead, the Commission should confirm that NANPA has the authority to deny codes to carriers who are not eligible for them in accordance with INC guidelines, and it should make clear that this Commission's enforcement procedures are available and will be used in appropriate cases. There is also no need for states to be given administrative roles concerning number pooling; there should be a single nationwide number pooling administrator.

II. THE COMMISSION SHOULD CONTINUE TO PROHIBIT SERVICE- AND TECHNOLOGY-SPECIFIC OVERLAYS

AirTouch's comments supported continuing the Commission's long-standing policy banning the use of service- and technology-specific overlays. As discussed in its filings, there is absolutely no basis for departing from the Commission's well reasoned conclusions that such overlays hinder competition, deter entry, violate the principle of technological neutrality, and do not provide effective area code relief.[5] Commenters from all sectors of the telecommunications industry expressed near-uniform support for the Commission's existing ban on service- and technology-specific overlays and opposition to granting states authority to introduce these specialized overlays.[6]

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[5] AirTouch Comments at 26-27.

[6] *See, e.g.,* Bell Atlantic Comments at 39; GTE Comments at 74; AT&T Comments at 68; Winstar Comments at 45. This is especially notable because this group includes incumbent carriers

Only Omnipoint and the Ad Hoc Telecommunications Users Committee supported use of specialized overlays.[7] State regulators expressed a variety of views: many were neutral, while a handful of states urged the Commission to authorize the introduction of specialized overlays or agreed that the issue should be reexamined;[8] Colorado specifically opposed the use of technology- or service-specific overlays.[9] As shown in the following sections, the arguments made by supporters of specialized overlays are unpersuasive and should be rejected.

A. Specialized Overlays Are Discriminatory and Anticompetitive

Omnipoint disagrees that specialized overlays are anticompetitive, maintaining that such overlays are "no more discriminatory, inherently anti-competitive, nor any more harmful to consumers than the current rate center methodology."[10] This is specious reasoning. Omnipoint's reference to the "current rate center methodology" apparently refers to the fact that because wireless carriers generally draw numbers from only a limited number of rate centers in their service area, they cannot have numbers ported to them from other rate centers even if they are LNP-capable, since LNP is limited to porting within a rate center.[11] The fact is, wireless carriers have *chosen* to take numbers

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who may derive a competitive benefit from service-specific overlays.

7 *See* Ad Hoc Telecommunications Users Committee Comments at 15; Omnipoint Comments at 19.

8 *See* California PUC Comments at 46; Connecticut DPUC Comments at 8; Maine PUC Comments at 27; New Hampshire PUC Comments at 21; New Jersey BPU Comments at 7; New York DPS Comments at 22; Ohio PUC Comments at 40. A joint outline developed by these states, together with Massachusetts, North Carolina, Texas, Washington, and Wisconsin ("Joint State Outline"), also expressed support for specialized overlays. *See, e.g.,* Joint State Outline at 42, Attachment A to Massachusetts DTE Comments. North Carolina, Texas, Washington, and Wisconsin, however, did not specifically submit or endorse the outline in their comments. Moreover, North Carolina took a position supporting the reexamination of specialized overlays, but it did not specifically support the use of such overlays. *See* North Carolina PUC Comments at 18.

9 Colorado PUC Comments at 13.

10 Omnipoint Comments at 19, 20.

11 *See* Omnipoint Comments at 11-12.

from only some rate centers, for reasons of economics and efficiency.[12] If the benefits of number portability to a particular wireless carrier outweigh these considerations, that carrier is free to obtain numbers in any rate center in its service area on the same basis as other carriers providing service there.[13]

In other words, if Omnipoint is disadvantaged, it is the result of its own choice and not "the current rate center methodology." Specialized overlays, on the other hand, *would* be discriminatory and anticompetitive, because they would mandate how wireless carriers get numbers, prevent them from obtaining numbers on the same basis as other carriers, and eliminate their ability to choose.

B. Specialized Overlays Are Inefficient

Omnipoint also argues that specialized overlays "promise an immediate solution for wireless providers."[14] While such overlays would provide wireless carriers with improved access to numbering resources in most cases, they do so at a substantial price to both the wireless carriers, their subscribers, and the public. In addition to the obvious discriminatory effects and competitive disadvantages that the Commission has recognized would result from segregating wireless carriers in specialized overlays, wireless overlays have significant disadvantages to all consumers of numbering resources, and ultimately, the public.

The most obvious disadvantage is that an overlay contains nearly 8,000,000 assignable numbers. This means that there will be an inefficient utilization of those numbers until there are

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[12] Even Omnipoint admits that wireless carriers are not forced into drawing numbers from a limited number of rate centers, but do so by choice: "Wireless providers could attempt to game the existing system by requesting NXXs in every rate center they serve, in order to ensure availability of relatively proximate numbering resources. . . . To Omnipoint's knowledge, wireless providers have refrained from employing such wasteful tactics." Omnipoint Comments at 11.

[13] *See* Omnipoint Comments at 11.

[14] Omnipoint Comments at 19-20.

literally millions of wireless subscribers in the new overlay code. In many NPAs, this is unlikely to occur for many years, if ever, leading to a massively inefficient use of numbering resources that will ultimately aggravate number exhaust.[15] Even in markets where wireless carriers do have millions of subscribers, the allocation of numbers to the wireless industry in blocks of 8,000,000 at a time instead of 10,000 is clearly highly inefficient.

Moreover, such a massive diversion of numbering resources to wireless carriers could likely lead to "takebacks" — the forced displacement of existing wireless customers from their existing numbers to the new overlay code, just to begin filling it. There is little likelihood that regulators would have the political will to open a new overlay NPA in an area experiencing number exhaust, yet allow the code to be used only for new growth in the wireless part of the industry, while the wireless carriers continue to use numbers from the old NPA and the wireline carriers have to deal with number shortages; it is much more likely that regulators would subject all wireless subscribers to a number change in order to free up numbering resources for wireline carriers. This would be profoundly discriminatory against wireless carriers and their customers, and would make potential subscribers less likely, not more likely, to use wireless phones as a substitute for landline service.

Because of the mismatch between the quantity of numbers in an overlay code and the number of wireless subscribers in a given NPA, there is a considerable likelihood that wireless-only overlays would not be geographically aligned with a single landline NPA, but would instead be designed to overlay several NPAs, a region, or an entire state in an effort to boost the utilization of numbers in the new code. Again, this would be highly discriminatory against wireless carriers and their subscribers.

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[15] For example, a wireless overlay was tried in New York City before the Commission banned them. The utilization rate in the overlay was so low that it was subsequently changed to an all-services overlay.

Subscribers would incur significant hardships if wireless-only overlays are put in place. Subscribers typically want all of their numbers for a given location to bear the same NPA. While an all-services overlay may make it somewhat more difficult for some subscribers to achieve this objective, a wireless-only overlay will make it impossible. *All* wireless subscribers would be forced to reprint their business cards, change their advertising, and incur other expenses and inconveniences due to a wireless-only overlay — and *only wireless subscribers* would be subject to these penalties. If ten-digit dialing is not made mandatory for wireline subscribers when a wireless-only overlay is instituted, as the Commission's rules require for all-services overlays, the discriminatory effect on wireless subscribers — as a class of users — would be further heightened.

All in all, wireless-only overlays could make wireless subscribers less willing to publicize their wireless telephone numbers. Such overlays certainly would not encourage the public to consider wireless phones to be interchangeable with, or a substitute for, wireline phones. If anything, they would cause the public to draw a clear distinction between the two. This would diminish the potential for competition between wireline and landline services, to the detriment of consumers.

C. Specialized Overlays Are Inconsistent With Number Portability

Any technology- or service-specific overlay will also impede the eventual participation by wireless carriers in LNP. If the overlay code is reserved for wireless phones only, numbers could not be ported between the new and old codes. If numbers *could* be ported between them, then the new code would no longer be wireless-only, because wireline numbers would be ported to it (and *vice versa*). In other words, authorizing wireless-only overlays would require the Commission to abandon its requirement that wireless carriers in major markets eventually become LNP-capable.

Likewise, wireless-only overlays would eliminate any possibility of including wireless carriers in number pooling with wireline carriers. If the Commission were to find that the public interest warrants the segregation of wireless numbers into a wireless-only overlay NPA, the same public interest considerations would preclude giving wireline carriers access to those numbers through pooling, because pooling would eliminate the wireless-only characteristic of the overlay.

Several commenters suggested that a wireless-only overlay should be permitted in order to facilitate Calling Party Pays.[16] While AirTouch strongly supports CPP, it disagrees that CPP warrants a wireless-only overlay. The very idea of reserving distinctive numbers for a particular service is inconsistent with number portability, and this would make matters worse by associating an entire NPA code for a particular service and group of providers. As long as wireless carriers remain subject to a requirement of becoming LNP-capable, CPP cannot be a basis for a wireless-only overlay. In any event, AirTouch submits that the use of a designated CPP-only NPA is less promising than other means of notifying a caller that a given call is a CPP call.

Ad Hoc has a different approach. It argues that the Commission should authorize states to segregate non-LNP-capable carriers in an overlay code of their own, citing the fact that paging has been exempted from LNP and that CMRS carriers generally have been granted a deferral of LNP-capability until November 2002.[17] In essence, Ad Hoc's position is that the Commission's technology-neutral policy should be overridden for the class of carriers that is technically incapable of participating in LNP.

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[16] *See, e.g.*, California PUC Comments at 48; New Hampshire PUC Comments at 21-22; Joint State Outline at 42.

[17] Ad Hoc Comments at 15 & n.22.

The technological neutrality that underlies the rule against specialized overlays is that such overlays discriminate against a particular service or technology. The fact that a given technology or service is different from others is what technological neutrality seeks to protect, not a basis from departing from it. If technologies were not different from each other, there would be no need for a policy of technological neutrality in the numbering area. Ad Hoc's argument simply fails to overcome the Commission's policy that overlays should not discriminate against any category of service provider or impede competition among different types of service providers.

AirTouch continues to maintain, as it did in its comments, that there is nothing new in the record warranting a change in the Commission's policy on technology- or service-specific overlays. All of the justifications underlying that policy remain valid. The commenters urging abandonment of that policy have done nothing to overcome the fact that specialized overlays are discriminatory and anticompetitive. They cannot counter the fact that such overlays are inherently *not* technology-neutral. The Colorado PUC's comments give one undisputable example of how such overlays are decidedly not technology-neutral: "the burden and inconvenience attributable to the need to reprogram all wireless telephonic devices . . . in the event a wireless overlay were adopted appears to place the great majority of the cost of the implementation of the new NPA on a specific segment of the telecommunications industry."[18] The Commission should retain its current rule.

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[18] Colorado PUC Comments at 13.

III. COVERED CMRS CARRIERS SHOULD BE SUBJECT TO NUMBER POOLING ONLY AFTER THE ESTABLISHED DATE FOR BECOMING LNP-COMPLIANT

Some state commenters suggested that CMRS carriers should be required to participate in number pooling before their current scheduled date for becoming LNP-compliant,[19] or that the LNP compliance date should be moved up.[20] Such comments reveal a lack of understanding why CMRS carriers cannot become LNP compliant sooner than November 2002.

For CMRS carriers, implementing number portability is considerably more complex than for wireline carriers, because wireless phone calls are not completed by means of a dedicated physical circuit between the carrier's switch and the subscriber's premises. Using radio to complete a call, a wireless carrier must be able to associate a particular phone with a telephone number. Currently, this is accomplished by assigning each phone a unique Mobile Identification Number ("MIN"), which is the handset's directory number. This number exists in both the phone and the switch and is used to identify the phone establish a communications link when that phone number is called. When a wireless phone is used in "roaming" mode, the MIN is also used to track which system is in communications with the phone and to establish a linkage between the home carrier associated with that number and the serving carrier. Roaming is thus entirely dependent on the physical residence of the telephone number in the handset *and* the association of that number with a particular home carrier.

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[19] Covered CMRS carriers in the 100 largest markets will be required to be LNP-capable as of November 24, 2002. *See CTIA Petition for Forbearance,* 15 Comm. Reg. (P&F) 82 (1999) (*Forbearance Order*).

[20] *E.g.,* Colorado PUC Comments at 6; Ohio PUC Comments at 30-31; Joint State Outline at 37.

Under the current MIN-based system, LRN-based LNP is simply not possible because of the one-for-one correspondence between the phone's assigned telephone number and the MIN, which in turn corresponds to a particular home carrier. Since the MIN is used to identify the home carrier, if a customer changes local carriers, he or she cannot keep the same phone number, because if the MIN remains the same the customer's home carrier will be misidentified. The wireless industry has been working on a solution to this that involves separation of the phone's dialable number from its MIN; this will allow a customer's phone to have a Mobile Directory Number ("MDN") differing from the MIN that is physically resident in the phone. Under this system, once implemented, a customer will be able to port his or her existing MDN to a new carrier and use a new MIN associated with the new carrier. The old carrier can then reuse the old MIN with a new MDN.[21]

The FCC has recognized that the process of making the transition from MIN to MIN/MDN will take additional time and has, for that and other significant reasons, established the November 2002 LNP compliance deadline for covered CMRS.[22] If CMRS carriers were suddenly subject to an earlier date for LRN/LNP compliance in order to facilitate pooling, the availability of wireless customers to roam would be jeopardized nationwide. Because roaming is accomplished through the use of nationwide databases, there is a need for national uniformity in how roaming is accomplished. The Commission should not subject the nation's wireless customers to serious disruptions of their ability to roam just in order to allow CMRS carriers to participate in number pooling in a few markets.

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21 *See Forbearance Order* at ¶¶ 27-28.

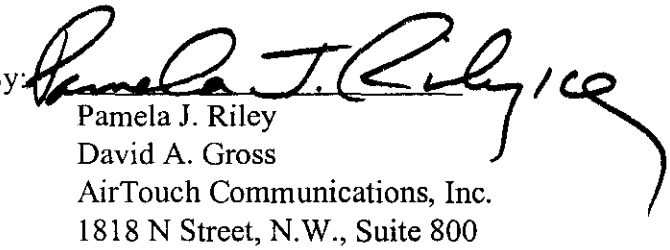
22 *See id.* at ¶¶ 29-30.

CONCLUSION

AirTouch respectfully urges the Commission not to delegate additional authority to state commissions regarding number administration and to act otherwise in accord with its filings in this proceeding.

Respectfully submitted,

AIRTOUCH COMMUNICATIONS, INC.

By: 

Pamela J. Riley
David A. Gross
AirTouch Communications, Inc.
1818 N Street, N.W., Suite 800
Washington, D.C. 20036
(202) 293-3800

August 30, 1999

CERTIFICATE OF SERVICE

I, Jo-Ann Monroe, hereby certify that on this 30th day of August, 1999, copies of the foregoing "Reply Comments of AirTouch Communications, Inc." in CC Docket No. 99-200 were served by hand on the following:

Yog Varma
Common Carrier Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 5-C352
Washington, D.C. 20554

Blaise Scinto
Common Carrier Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 6-A420
Washington, D.C. 20554

Anna M. Gomez
Common Carrier Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 6-A324
Washington, D.C. 20554

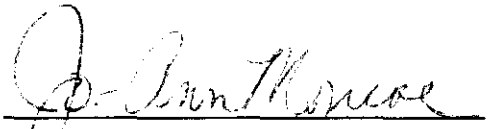
David Furth
Wireless Telecommunications Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 4-B522
Washington, D.C. 20554

Thomas J. Sugrue, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 3-C252
Washington, D.C. 20554

Jim Schlichting, Deputy Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 3-C254
Washington, D.C. 20554

Lawrence Strickling, Chief
Common Carrier Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 5-C450
Washington, D.C. 20554

International Transcription Service
The Portals
445 - 12th Street, S.W., Room CY-B400
Washington, D.C. 20554



Jo-Ann Monroe